

#7

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)  
**DC4974**

First named inventor: **B.K. Hwang et al.**

Application No. **09/995,985**

Group Art Unit: **1762**

Filed: **November 19, 2001**

Examiner:

Title: **COMPOSITIONS AND METHODS FOR FORMING DIELECTRIC LAYERS USING A COLLOID**

Attention: Office of Petitions  
Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

NOTE If information or assistance is needed in completing this form, please contact Petitions  
Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a  
notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the  
expiration date of the period set for reply in the Office notice or action plus any extensions of time  
actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications  
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

☐ Small entity-fee \$ \_\_\_\_\_ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee \$ **1,300** (37 CFR 1.17(m))

**2. Reply and/or fee**

**A. The reply and/or fee to the above-noted Office action in**

the form of \_\_\_\_\_ (identify type of reply):

- ☐ has been filed previously on \_\_\_\_\_  
☒ is enclosed herewith.

**B. The issue fee of \$ \_\_\_\_\_**

- ☐ has been paid previously on \_\_\_\_\_  
☐ is enclosed herewith.

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## 3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c)(III)(C) and (D))].

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

April 10, 2003

Date

Sharon K. Severance  
Signature

Telephone

Number: (989) 496-8120

Sharon K. Severance

Typed or printed name

Dow Corning Corporation

Address

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☒ Other: Fee Transmittal

2200 W. Salzburg Road, P. O. Box 994

Midland, MI 48686-0994

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CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

April 10, 2003

Date

Kelly J. Smith  
Signature

Kelly J. Smith

Type or printed name of person signing certificate



#7

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of  
B.K. Hwang et al.

Serial No: 09/995,985

Filed: November 19, 2001

Title: Compositions and Methods for  
Forming Dielectric Layers Using a  
Colloid

Docket Number: DC4974

Assistant Commissioner for Patents  
Washington, D.C. 20231

) Group Art Unit:

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Petition to Revive for  
Unintentional Abandonment  
37 CFR 1.137(b)

) Dated: April 10, 2003

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OFFICE OF PETITIONS

Sir:

Facts Relating to Unintentional Abandonment

On or about October 5, 2001, the individual responsible for providing patent docketing at Dow Corning ("docket clerk") left the company. Due to a workforce reduction program that had been implemented a new employee could not be hired to replace this person. The responsibilities of the docket clerk were transferred to a senior level office professional. The senior level office professional had less than two weeks of hands on training with the docket clerk before the she left.

To help the office professional with her workload a contract worker was also hired. One of the responsibilities of the contract worker was to open the incoming mail coming from the U.S. PTO, locate the case folder associated with the mail item and place mail item with the case folder. When the item received was a Filing Receipt, the contract worker was instructed to

review the Filing Receipt for accuracy. If no corrections the Filing Receipt were needed she was to place the Filing Receipt in the case folder and return the case folder to the files. All other items were to be given to the office professional who would enter the item into an electronic docketing system with the appropriate due date and action due.

Neither the office professional, the contract worker or their supervisor were aware that the US PTO was mailing Notice of Missing Parts on letter size paper and/or that they would come with the Filing Receipt. Thus, the contract worker had not been instructed to look at all the pages attached to the Filing Receipt.

In approximately March 2002, due to further workforce reductions, the docketing duties were transferred to a full time docket clerk and the responsibility for reviewing Filing Receipts was assigned to the Office Professional of the attorney/agent who filed the application. A college co-op assists the docket clerk by opening the mail, locating the file, placing the item with the file and either giving it to the office professional (Filing Receipt) or Docket Clerk.

On or about September 13, 2002, Shelly, an office professional for Dow Corning Corporation, was reviewing a Filing Receipt for accuracy. She noticed that the document appeared unusually thick. She reviewed the accompanying documents and realized that there was also a Notice of Missing Parts. She took the Notice of Missing Parts to the docket clerk and informed her of this situation.


On or about September 13, Kelly, an office professional for Dow Corning Corporation, was preparing the instant application for foreign filing. Upon reviewing the U.S. case folder she discovered that the original signed declaration and assignment were still in the case folder. However, there was nothing in the docketing system or on the case folder to indicate that a

Notice of Missing Parts had been received. Since she had just heard about Shelly discovering the Notice of Missing Parts with the Filing Receipt described above she reviewed the Filing Receipt documents in the case folder. She found the Notice of Missing Parts attached to the Filing Receipt and located in the case folder. The Filing Receipt was received on or about January 7, 2002.

Kelly then took the application to the assigned attorney. Upon hearing about this situation, Kelly, the assigned attorney and their supervisor immediately reviewed all applications filed in the last 18 months where they were aware that the declaration has not been mailed at the time of filing to see if there were additional applications where this occurred. The above discovered that this had occurred in two other applications. The applications were then given to the responsible attorney/agent to determine if a timely response could still be made or if the applications had become abandoned. Procedures were also implemented for the college co-op to review all pages of the Filing Receipt to determine if there is a Notice of Missing Parts attached. If the co-op locates a Notice of Missing Parts the file is given to the Docket Clerk and a docket entry is made.

It is believed that the abandonment of this application was unintentional. Applicant respectfully requests that the above application be revived.

Respectfully Submitted,  
DOW CORNING CORPORATION

  
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